



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

DATE: January 10, 2005

TO:  BUREAU of LAND File

CCPY

FROM: Christopher Holy, Environmental Protection Specialist, Des Plaines BOL

SUBJECT: 0311740003 – Cook County
Summit/IWI Industries
Superfund/Technical Reports

SITE DESCRIPTION

The IWI, Inc., site is located at 7738 West 61 Place in Summit, Cook County, Illinois. The geographic coordinates of the site is 41°46'47" north latitude and 87°48'51" west longitude. The site is approximately 1.7 acres and is rectangular in shape. A residential neighborhood is located across the street (61st Place), south of the site (Photo 1).

SITE HISTORY

According to Illinois EPA and USEPA records, Mr. Glenn Wellman president of IWI Industries was responsible for the day-to-day operation and activities, until his death in December 1999. Mr. Wellman was in the business of manufacturing, repairing and cleaning stainless steel containers called totes. However, Mr. Wellman and his company, aka Welco, Itasco and IWI, was the subject of multiple investigations over the years. These investigations were for illegal toxic dumping and storage of hazardous waste since at least 1972. Various agencies, such as USEPA, Illinois EPA, Metropolitan Sanitary District (MSD) and the Village of Summit along with others had tried to get Mr. Wellman and his company to comply with environmental regulations. Illinois EPA records indicate that Mr. Wellman never accepted responsibility for his environmental violations and his disregard for the environment during the course of his business remained unchanged until his death. His facility consisted of three dilapidated buildings (all of which have since been demolished). The largest building (#1) was approximately 45,000 square feet and was a single story structure. Within building #1 was a paint area and four main sump pits (Photo 2-south view of former location of building #1). These sumps were tested by Mr. Wellman and were found to be hazardous for Trichloroethylene. The second building or stack building was approximately 5,000 square feet. Within building #2 was a processing area, a sump pit and the majority of stored waste containing approximately 200 totes and drums filled with paint & grease (Photo 3-southwest view of former location of building #2. Note former processing area substructure filled with stagnant water). On the concrete floor of the processing area (northwest corner) it was noted by Ms. Tina Kovasznay (October 5, 1994 Memorandum) that grease migrated from the totes and floor and into an 8-foot ditch on the northwest side of the property (Photo 4-northwest view of 8 ft ditch where grease had migrated from totes and drums). The third building #3 was approximately 1,000 square feet and contained approximately 2 to 3 feet of waste (grease and oil), which covered the floor (Photo 5- southeast view of former building #3). In another section building #3 additional grease and oil (from stored drums and totes) also coated the floor.

Timeline

Government's Version of Offense (June 4, 1986)

United States vs. Glenn Wellman, 86 cr 78 Memorandum
from Michelle Smith to Barbara Bowman.

January, 1979- July 1981

From January 1979 to July 1981, Itasco Incorporated, located in Summit, Illinois, sold 129 used and new portable storage tanks to M-Chem located in West Wego, Louisiana. These tanks were to be used for water transportation of flammable and combustible liquids to oil drilling rigs. U.S. Department of Transportation (DOT), regulations require that the manufacture of these tanks receive an "exemption" which certifies that the tanks meet certain specification for safety. Itasco President, Glenn Wellman, relayed information to M-Chem that the tanks met U.S. DOT specifications and had a valid DOT exemption. He provided a copy of an exemption to M-Chem on May 22, 1978 and March 1981. The first exemption belonged to a different company as proven by Alan I. Roberts (Director of Hazardous Material Regulation for DOT). The second exemption, which was in the name of Itasco, was a forgery as suggested by the Federal Bureau of Investigation (FBI), even though a definitive association could not be made.

U.S. DOT inspected the tanks sold to M-Chem and discovered that five of the tanks, selected at random, did not meet the U.S. DOT specifications.

U.S. DOT proceeded against Wellman administratively for failure to meet specifications and for failing to properly test tanks, which were sold to another company. The U.S. DOT assessed a fine of \$40,000 in early 1983, however Mr. Wellman refused to pay subsequently he was sued by the U.S. Attorney's Office to collect the fine. Mr. Wellman was convicted of two counts of mail fraud. A jury trial was used.

Additionally, Mr. Wellman has been the subject of continuous litigation with the United States in connection with financing his business. Mr. Wellman financed Welco Chemical Company with a \$388,000 Small Business Administration (SBA) guaranteed loan in March 1972. He defaulted in June 1973 and the SBA was forced to purchase the loan from the bank. Mr. Wellman only paid the interest for four years. In 1977, the U.S. Marshall foreclosed and sold the property. The largest bidder was SBA for \$300,000.

SBA sold the property to what it believed to be a third party, Rae Mintz, for \$156,000. In Fact, Rae Mintz is the mother of Mr. Wellman's friend and attorney, Arthur Mintz. Mintz formed a corporation, IWI Industries, Inc. which promptly loaned Mr. Wellman \$150,000 to buy back Itasco. Thus, the SBA suffered a loss of \$150,000 while Mr. Wellman rebought the company for \$150,000.

In March 1978, Judge Decker issued a deficiency judgment of \$148,000. Mr. Wellman failed to pay any money and U.S. Attorney Office began a citation to discover assets. During those proceedings, the government discovered that Mr. Wellman failed to list his Lincoln Continental as an asset. A Marshall seized the car on behalf of the United States. Mr. Wellman then filed for bankruptcy.

During these years Mr. Wellman lived in a luxury condominium at 1300 Lake Shore Drive. After the bank, which held the mortgage threatened to foreclose, Mr. Wellman sold the condominium. The United States recovered approximately \$105,000 from the sale in 1985. Thus it took the United States thirteen years to recover money from Mr. Wellman's default. The actual loss to the government was \$200,000.

Aggravating Circumstances

The case against Mr. Wellman was aggravated by several circumstances. This fraud was part of a long series of environmental violations perpetrated by Wellman and his company. Wellman's continued actions throughout the years indicated his disregard for environmental safeguards. The following examples are of Mr. Wellman's violations from various agencies:

- | | |
|-----------------|---|
| May 21, 1971 | Wellco cited by Metropolitan Sanitary District for discharging sewerage with excessive concentrations of cadmium, iron, mercury, lead and zinc, including hexane solubles into a sanitary system. Mr. Wellman failed to appear for a meeting with MSD in regards to violations (Summer of 1971). |
| July 21, 1971 | Wellco was issued violation by MSD for discharging mercury and lead into a sanitary sewer system. In August 1971, Mr. Wellman sent a letter to MSD claiming that he was in compliance. |
| January 9, 1973 | Mr. Wellman cited by MSD for discharging wastes with high pH and excessive concentrations of hexane solubles, zinc, lead and mercury into a sanitary sewer. Mr. Wellman failed to appear for conciliation meetings and later claimed he was not in violation. |
| March 1973 | Mr. Wellman again cited by MSD for discharging wastes with high pH and excessive concentrations of hexane solubles into a sanitary sewer. Mr. Wellman failed to appear for a required meeting. After failing to appear at three meetings the MSD recommends filing a lawsuit against Mr. Wellman. |

1974 MSD inspected Wellco again and found high pH materials in the area, which lead to the sewer. MSD also found large amounts of fuel oil on the floor of a burned out building. The Village of Summit Fire Chief stated that the fuel oil was a substantial fire hazard. Mr. Wellman claimed that the fuel oil should not be of concern to the MSD since it did not enter the sewer system. Mr. Wellman also claimed that the sludge leading to the sanitary sewer was a "back-up" from some other company and that his cleaning operation did not involve any discharge into sewers.

1974 (Cont.) MSD inspectors found oil being discharged from the Wellco facility into a sanitary sewer. MSD found that "no action" had been taken to clean up the oil or sludge. Mr. Wellman denied that the oil was from his facility.

1975 MSD sued Mr. Wellman for failing to install a sampling station as required by MSD regulations.

August 1975 Citizen complained of discharge that was coming from Wellco Chemical Co. MSD investigators went to the plant and observed discharge coming from a hose. When questioned Mr. Wellman claimed he was emptying rainwater. Ten days later, MSD received a second citizen complaint that the company was again discharging effluent from a hose into the sewer. MSD investigators returned to the site and questioned Mr. Wellman once again about the hose. Mr. Wellman again claimed that he was simply pumping rainwater from a reservoir. In Fact, the reservoir was the foundation of a burned out building into which Mr. Wellman dumped the remains of his tank cleaning process. As such, it contains toxic cleaning solvents and high lead concentrations. MSD investigators told Mr. Wellman to turn the pump off. The next day, MSD investigators returned to the site and found that over 3-feet more of liquid had been pumped. When questioned Mr. Wellman simply stated that an employee unknowingly left it on for an hour.

Sept. 13, 1975 Court ordered Permanent Injunction. The lawsuit, ordered periodic inspections and sampling at the plant by MSD Inspectors.

October 20, 1976 During a court ordered inspection, Mr. Wellman refused to allow inspectors to perform water testing. He also denied inspectors access to certain areas and rooms (allegedly condemned) on the premises. MSD inspectors later discovered that no areas had been condemned and returned the next day to perform an inspection. However, Mr. Wellman refused to allow one of the inspectors onto the premises. Inspection of other areas was impossible due to the way material was placed

May 1977 Village clerk of Summit received citizen complaint about Wellco. The village clerk personally responded to the complaint and saw effluent from Wellco traveling across the pavement and entering a sanitary sewer. The

clerk contacted MSD who investigated and found the material to have a pH of 11. Plant employees would not allow MSD investigators onto the premises. The MSD investigators returned this time accompanied by the Mayor of Summit who was authorized to act as a Health Inspector. Again access was denied. The next day MSD investigators returned and once again were denied access. Mr. Wellman agreed to meet with the investigators. While waiting for Mr. Wellman's arrival the investigators observed company workers removing a temporary garden hose hook up. Mr. Wellman claimed that the liquid running into the sanitary sewer was simple rainwater. He claimed that Wellco added nothing to the rainwater and if the pH was not that of rainwater then he could not be held responsible for the high Ph.

March 24, 1981

Illinois EPA was notified of unpermitted on-site storage of hazardous waste. Charles Gebien (Illinois EPA), attempted to make an unannounced visit, but was told by the receptionist that Mr. Wellman was conducting a job interview and no one else was available to escort him on his inspection (Illinois EPA Memorandum 3/27/81).

March 27, 1981

Mr. Wellman emphasized to Charles Gebien (Illinois EPA), that sludge is a non-hazardous waste and he is in "No Hurry" to make disposal arrangements. He claimed to have plenty of storage room for sludge waste in the companies processing tanks (Illinois EPA Memorandum 3/27/81).

March 31, 1981

Mr. Wellman sent a letter to Charles Gebien regarding the "Closed Recirculating Tank Washing System" that was used by IWI. The letter illustrates that the system is a completely closed loop cleaning system.

April 9, 1981

Mary Drake (Illinois EPA-LPC Attorney), made arrangements for a site visit after Mr. Wellman refused inspectors (Jim Corcoran, Tom Conroy (MSD-Pollution Control Officers (PCO), Everette Mortenson (USEPA Sampling & Analysis Div) and Charles Gebien (Illinois EPA), entry to the plant earlier that day. Mr. Wellman claimed that a "plant breakdown" had occurred (Illinois EPA Memorandum 4/14/81).

- Mr. Mortenson informed Mr. Wellman of intent to sample IWI tank sludge and determine through analysis if waste is hazardous according to Federal Part 261 definition of hazardous waste.
- Mr. Wellman agreed, but suggested that samples cannot be safely withdrawn from the storage tank while in operation. Mr. Wellman reiterated that the sludge waste is not hazardous and consists of a non-caustic mixture. He added that the mixture is that of detergents, paints, industrial coatings, grease, cutting oils, motor oil and hydraulic oils.

- Mr. Wellman suggested inspectors return on the weekend to obtain samples when the system was shut down.
- Mr. Mortenson suggested arrangements could be made after consulting with USEPA Enforcement Division.

May 20, 1981

Mark Haney (Illinois EPA) is assigned to the complaint. On Mr. Haney's first visit he inadvertently walked into the back entrance of IWI after unsuccessfully searching for the main entrance. At that time Mr. Haney noticed approximately 20-30 barrels located on a dock west of the northern most building. It appeared sludge had been dumped off the dock onto old railroad property. Before Mr. Haney could photograph the site he was approached by an individual and asked to go to the plants main entrance and talked with the owner. After approximately 30-45 minutes Mr. Wellman returned from his errands but refused to meet with Mr. Haney without an appointment. Mr. Haney left without an agreed upon inspection date (Illinois EPA Memorandum 7/14/81).

June 23, 1981

Mark Haney returned to IWI to get photographs of possible violations. Still unable to get an appointment Mr. Haney decided to walk down the railroad easement in order to remain off IWI property. After taking five pictures of potential violations, Mr. Haney returned to the front office to try once again to secure an appointment. However, Mr. Wellman was on vacation for 2-weeks until June 29. In his absence Mr. Jose Cerda set up a tentative appointment for 12:00PM on July 8th, 1981. Between June 29th and July 6th Mr. Haney called to confirm his appointment. However, Mr. Wellman would not return his calls (Illinois EPA Memorandum 7/14/81).

July 8, 1981

On Mr. Haney's 3rd attempted visit to IWI he was able to meet with the owner. Mr. Wellman who still contended that no waste other than scrap metal was generated in the manufacturing process. Mr. Wellman added "very rarely" do containers that come in for repair contain paint or chemical residue. He stated further that if they did contain materials he would store them in one of two 12,000-gallon underground storage tanks. He finished by stating once the tanks were filled he would secure the required permits and dispose of it (Illinois EPA Memorandum 7/14/81). The results of Mr. Haney's site inspection were as follows:

- During his inspection Mr. Haney observed several barrels in a burned out building. He requested that Mr. Wellman take him to the dock where he previously observed barrels. At the dock Mr. Haney asked Mr. Wellman what was in the barrels? He replied they were full of assorted junk, demo and "spilled" materials from the north business), building. Mr. Wellman claimed a previous warehouse operation Lake Enterprises (went bankrupt and ~~out of~~ was very lax in their operation and IWI was now trying to clean up the area.

- Mr. Haney took two samples from the barrels on the IWI dock, which appeared to be paint sludge and lubricating grease. Mr. Wellman stated he was sure the barrels would be gone before the analytical results came back.
- Mr. Wellman stated that two people from the EPA had been at the plant last month and found everything in order. However, he was unable to provide their names or which EPA (State or Federal) agency.
- Mr. Haney visited the Village of Summit Municipal Services and talked with John Sartoro (Superintendent of Public Works) and Ed Koenig (building official), regarding IWI. They informed Mr. Haney that Mr. Wellman was a bad actor and that they had trouble with him before. The Village representatives continued stating they had accepted waste from IWI and disposed of the waste at American Grading landfill. However, while unloading one roll-off box employees at the landfill saw that barrels had been placed at the bottom and then covered with demo materials. From that point on the Village refused to accept waste from IWI according to Santoro.

February 17, 1982

A citizen complained that a green liquid was flowing from Wellco chemical to an adjacent railroad easement and to the street. MSD pollution control officers (PCO), found an opaque light green high pH liquid from under a door on the eastern wall of the IWI facility. About 200-gallons were found on the ground. When interviewed, Mr. Wellman stated that the flow was melting ice and snow, notwithstanding its color or high pH. Another sample was taken at approximately 5:00P.M. by MSD inspectors. Mr. Wellman stated that there was no flow of materials or that it was tap water (Memorandum from Michelle Smith to Barbara Bowman).

February 19, 1982

MSD investigators returned to the Wellco facility. Mr. Wellman claimed he couldn't find the problem. However, investigators found small puddles of green liquid in the walkway near the door of the facility. An inspection of the building where tank washing took place revealed large amounts of caustic mud and reddish pools of alkaline materials. The samples taken earlier were found to contain high concentrations of cyanide and lead. (Memorandum from Michelle Smith to Barbara Bowman).

April 1982

MSD cited Mr. Wellman for violating discharge requirements of fats, oils, greases, lead and high pH materials. A conciliation agreement was reached with MSD, which Mr. Wellman agreed to allow access to his facility whenever a supervisor was present. Two weeks later, MSD inspectors went to Wellco to conduct a compliance investigation. MSD investigators found

that the company had stacked large metal paint boxes in the area they wanted to inspect. Mr. Wellman stated that the boxes could not be moved for a week. Access was denied for at least a month. Meanwhile MSD found that other samples were in violation of dumping regulations for lead, cyanide and fats, grease and oils. MSD again brought a violation against Mr. Wellman. (Memorandum from Michelle Smith to Barbara Bowman).

September 1982

Additional discharges were found to contain high lead and mercury. The company denied dealing with lead or cyanide. However, it agreed to try and come into compliance. Apparently, no action was actually taken (Memorandum from Michelle Smith to Barbara Bowman).

1984

Mr. Wellman was again cited by MSD for violations of cyanide and lead disposal regulations. Mr. Wellman again claimed that his company does not discharge any hazardous waste (Memorandum from Michelle Smith to Barbara Bowman).

- Mr. Wellman has been the subject of a show and cause actions for illegal dumping of lead and cyanide into the sanitary sewer as recently as May 1984.
- According to a USEPA work plan submitted to Mr. Crause (Illinois EPA) dated 6/21/90, the Illinois EPA conducted a site inspection on July 2, 1984. The inspection was in response to a complaint by a former IWI employee Mr. Robert Jessup. Mr. Jessup stated that he was ordered by Mr. Wellman to dump hazardous waste at the facility (caustics from the washers) into the sanitary sewer at night to avoid MSD inspectors because they were off duty. Mr. Jessup also stated that these procedures, to his knowledge, were implemented since 1979. Mr. Jessup said that a common practice by IWI is to run water continuously while dumping into the sewer to thwart MSD's sampling efforts.

August 14, 1985

Cliff Gould (Illinois EPA) was assigned to the IWI case. A visit was conducted at the request of the Village of Summit, due to a fire that occurred the previous day (8/13/85) at the IWI facility. In attendance were Mr. Jarosik (chief building inspector) and Mr. Koenig, both with the Village of Summit, and Mr. Gould. Mr. Wellman conducted a tour of the facility that began in the east building room numbers M, N, and O. The areas were still being used for manufacturing and tote repair and testing. (Illinois EPA Memorandum 8/15/85). The results of the site visit were as follows:

- Room "O" was no longer being used by IWI. The roof of this room had fallen in. Many 55-Gal drums of unknown material were staged

there. A definite solvent odor was detected, much like lacquer thinner. The floor of this room had a standing pool of brownish liquid.

- Room "S" is part of the area where the tote cleaner is located. In this room is where the fire started. According to Mr. Wellman the heating coils were left uncovered allowing the insulation to catch fire. Mr. Gould noticed that the tote cleaner itself was open. Mr. Gould observed that the bottom portion of the unit was full of semi-solid sludge. Employees at the site were shoveling sludge from the floor into totes and drums. Mr. Gould also observed that Area "A" had fewer drums than when a previous inspection was conducted.
- Room "F" Since the visit of August 1985 inspection the bottom half of the window frame had been sealed off using the tops of drums. Materials extended across the entire area, approximately 1-foot above the windowsill. The material on the surface appeared to be similar to the sludge observed in tote cleaner according to Mr. Gould.
- Room "H and G" These previously burned out areas also contained material. The materials inside had increased approximately 1-foot since the August 1985 inspection. It appeared to be the same type previously observed ink, paint and adhesive residues.
- Area "A" floor was covered with stone (1-1½ inches deep), and was stained dark brown to purple in color. It appeared that a liquid was leaking thru a door, which connected rooms "G" to "P" (the chemical mixing and packaging area).
- Drums (x201, x202 and x502) that were sampled in August 1985 were not observed in the area.
- Two representatives from the Village of Summit indicated to Mr. Gould that they had shut down the facility for code violations until Friday, August 16, 1984. They also informed him that the State Fire Marshal was to inspect the facility the next day and it is their impression that he would shut down the facility until the violations were corrected.

August 14, 1985

IWI is shut down by Village of Summit and State Fire Marshall for Code Violations (Illinois EPA Memorandum 8/31/92). Illinois EPA obtained a temporary restraining order and closed the plant for 90 days.

November 21, 1985 Chancery Court Ruling by **Judge David J. Shields** that stipulates the following: Based upon the evidence...

1. The materials generated and stored by the defendant at the IWI site does not impose a danger to the environment or to public health.
2. I find that no act or activity of the defendant has caused or contributed to cause a substantial danger to the environment or to public health.
3. I find that the materials generated and stored at the IWI site are not "waste" as defined by the Illinois Environmental Protection Act or Pollution Control Board regulations as necessary to warrant as granted on August 19, 1985.
4. The defendants have not violated the act or pollution control boards regulations.
5. I find the temporary restraining order was improvidently issued on August 19, 1985.
6. **The motion to dissolve the temporary restraining order entered ex parte, August 19, 1985 is granted.**

October 29, 1990 Memorandum on closing of enforcement file for IWI Industries, File No. 7561 Haz from Donald L. Gimbel (Illinois EPA).

- States Attorney initiated grand jury proceedings on or about September 26, 1987.
- File opened on June 27, 1985.
- States Attorney has advised Mr. Gimbel that grand jury investigation is closed with no further activity to be conducted.

January 11, 1993 Pre-Enforcement Conference (PEC), Letter from Illinois EPA to Mr. Wellman for violation of 35 Ill Adm. Code 722.111(waste determination), cited by Tina Kovasznay (Illinois EPA). *bol*

February 3, 1993 PEC follow-up letter from Illinois EPA to Mr. Wellman. At the conference Mr. Wellman of IWI Industries agreed to take the following steps:

- bol*
1. 722.111-IWI will submit a detailed explanation of why all materials on-site which appear to be waste is not a waste. This explanation will include all processes for making primer, concrete sealer, etc.
- The explanation must be submitted to the Agency by February 19, 1993.

March 24, 1993 Enforcement Decision Group (EDG), Memo from Tina Kovanznay to Bill Ingersoll (Illinois EPA). FOS recommended enforcement action against IWI for failing to address the conditions of the February 3, 1993 (PEC), which was: To submit a detailed explanation on IWI processes for making primer, and concrete sealer on site.

October 28, 1993 Tina Kovasznay and Mike Cimaglio (Illinois EPA/DLPC/FOS) attempted to conduct a RCRA inspection at IWI. Upon arriving on-site, IWI's receptionist informed them that although the company was operating at the time of their arrival, there was no person on-site who could accompany them on their inspection. The receptionist was informed that according to Section 4(d) of the Environmental Protection Act the Agency shall have the authority to enter at all reasonable times upon public or private property for the purpose of inspecting and investigating to ascertain possible violations of the Act or regulations there under. They were again informed that they would not be allowed on-site. Ms. Kovasznay then requested the receptionists call Mr. Wellman or Mr. Ehrler (Production Foreman), to inquire about the possibility to conduct an inspection at that time. The receptionist refused. At that time, the Illinois EPA inspectors left the site.

January 11, 1994 EDG Memo from Tina Kovanznay to Bill Ingersoll. FOS recommends violations discovered during inspection on 1/11/94 be added to existing enforcement case. The violation cited by Tina Kovasznay was 35 Ill Adm Code **808.121(a)** (IWI has not determined if waste generated is a special waste).

February 25, 1994 Illinois EPA Compliance Inquiry Letter sent to Mr. Wellman for violation 35 Ill Adm Code **808.121(a)**.

April 7, 1994 Mr. Wellman sent IWI's compliance letter to Mr. Brian White (Illinois EPA). In it he states that the materials on-site are not hazardous in anyway. Mr. Wellman also provided a copy of a Chancery Court Ruling by Judge David J. Shields.

***It should be noted that **Judge David J. Shields** was convicted in the *** Operation Grey Lord judicial investigation conducted by the F.B.I. for judges accepting bribes to fix cases.

October 5, 1994 IWI cited by Tina Kovasznay for violation of Section **21(a)** causing or allowing the open dumping of any waste. **21(p)(1)** causing or allowing litter (Illinois EPA open dump inspection report).

- Memorandum from Tina Kovasznay to Vickie Von Lanken (EDG, Legal Counsel). FOS recommends that an Administrative Warning Notice (AWN) be sent to IWI, because open dumping was observed and outstanding violations still exist. FOS believes that an AWN

might encourage IWI to take some action towards cleaning up the site.

- October 14, 1994 Memorandum from Donald Gimbel (Illinois EPA DLC) to EDG. Maywood DLC and FOS present a revised recommendation for IWI, based upon past history and no attempt to resolve violations. Instead of sending an AWN to IWI, they suggest sending a modified Compliance Inquiry Letter (CIL) to include Section 31(d) language. If a modified CIL is inadequate, then DLC and FOS recommend an updated referral to the Attorney General Office (AGO) for cited violations.
- November 3, 1994 EDG accepts FOS/DLC suggestion of referral to AGO from October 14, 1994 memorandum.
- December 1, 1994 Illinois EPA Compliance Inquiry Letter sent to Mr. Wellman for violations of 35 Ill Adm Codes:
- Bo-D { (722.134)(a) Hazardous waste accumulation Tank not labeled.
(725.132) No required equipment/alarms, etc.
(725.137) No arrangements w/local authorities or Hospital
(725.151)(a) No contingency plan.
(725.155) No emergency coordinator.
(725.116)(a) No personnel training.
(725.116)(d) No documentation of personnel training.
- February 15, 1995 PEC held at Agency's Maywood Region Office. The purpose of the meeting was to address outstanding violation listed in December 1, 1994 memorandum. At the PEC Mr. Wellman agreed to come into compliance by June 1, 1995. Mr. Wellman did not respond within the 10-day time limit. Illinois EPA referred to AGO for enforcement.
- October 19, 1995 Office of the attorney General reached an agreement with Mr. Wellman of IWI, on October 11, 1994. The following agreements were reached:
1. Retain a "Reputable" consultant within 30 days to take a sample of areas (P, G, F, S, A, N), in accordance with SW846.
 2. Make a waste determination pursuant to Sect 722.111, of all materials.
 3. All liquids tested for ignitability and corrosivity.
 4. All liquids must be tested for TCLP organics and inorganics.
 5. Inform Illinois EPA when sampling is to take place.

6. Within 3 days of receiving results of sampling activities you must provide us with a copy of the results.
7. Clean-up areas north of bldg "P", and bldgs (H, A, N), within 120 days of receipt of this letter.

Mr. Wellman also agreed to pay \$35,000 in civil penalties. Mr. Wellman asked for a list of environmental consultants and was provided with three different contractors.

June 30, 1995

Memorandum from Tina Kovasznay (Illinois EPA/FOS) to Don Gimbel (Illinois EPA DLC), in regards to inspection conducted at IWI. The following continuing apparent violations were observed: 21(p), 21(a), 808.121 (a) and 722.111 FOS requested that the referral to the AGO be updated.

July 20, 1995

Illinois EPA sent a copy of the inspection report (6/30/95) to Mr. Wellman that IWI was still not in compliance.

May 7, 1996

OAG rejects Heritage sampling report on IWI, because it was incomplete and did not address the terms of the October 11, 1994 agreement. Ms. Cazeau of the AGO requested that appropriate sampling activities be conducted, and a revised report submitted on or before June 28, 1996, be consistent with October 11 agreement.

October 16, 1996

According to the RCRA Inspection Report submitted by Tina Kovasznay (Illinois EPA/FOS), the site condition reflected earlier remain virtually unchanged as reported by Cliff Gould (Illinois EPA/FOS) on August 14, 1985. However there was an increase in materials being stored within the buildings, along with an admission by Mr. Wellman that the water in the sumps in Buildings N and M were tested and found to be hazardous for **Trichloroethylene (TCE)**. Open dumping continued and the disposal of hazardous waste was still unaccounted for. Some waste was dumped between buildings. Special waste from the north side of building P was placed on the ground and mixed with sawdust to "Fill in low areas". None of the outstanding violation previously mentioned were corrected. Tina Kovaszany (Illinois EPA/FOS) referred this facility to the Occupational Safety and Health Administration (OSHA), and to Metropolitan Water Reclamation District (MWRD) for further investigation.

November 6, 1996

OSHA conducted an inspection at IWI. The following citation were cited:

29CFR1910.106(e)(2)(i)(b)(2):

More than 120 gallons of Class IB, IC, II or III flammable solvents were located outside of an inside storage area, thereby exposing employees to the hazards of fire and explosion.

Type of violation: **Serious**

Fine: **\$750.00** Violation must be abated by 12/22/96.

29CFR1910.106(e)(6)(i):

Adequate precautions against the ignition of flammable vapors were not taken.

Type of violation: **Serious**

Fine: **\$750.00** Violation must be abated by 11/19/96.

29CFR1910.106(eners without)(6)(ii):

Class I flammable liquid(s) were dispensed into containers without electrically interconnecting the nozzle and the container, thereby exposing employees to the hazards of fire and explosion.

Type of violation: **Serious**

Fine: ? Violation must be abated by 11/19/96.

29CFR1910.157)(g)(2):

An educational program to familiarize employees with general principles of fire extinguisher use and hazards involved with incipient stage fire fighting was not provided to all employees upon initial employment and annually thereafter, thereby exposing employee to injuries associated with fires.

Type of violation: **Serious**

Fine: **\$450.00** Violation must be abated by 12/22/96.

29CFR1910.219(d)(1):

Pulley(s) with part(s) seven feet or less from the floor or work platform were not guarded to prevent employees from reaching into nip points.

Type of violation: **Serious**

Fine: **\$450.00** Violation must be abated by 11/29/96.

29CFR1910.219(e)(3)(i):

Vertical or inclined belts(s) were not enclosed by guards.

Type of violation: **Serious**

Fine: ? Violation must be abated by 11/30/96.

29CFR1910.253(b)(2)(ii):

Two Argon, Two Oxygen, Three Acetylene and Four L P gas cylinders were not secured, thereby exposing employees to the hazards of fire and explosion in the event they were struck by a heavy moving vehicle.

Type of violation: **Serious**

Fine: **\$750.00** Violation must be abated by 11/30/96.

29CFR1910.253(b)(4)(iii):

Two Argon, Two Oxygen, Three Acetylene and Four L P gas cylinders were not separated at a minimum distance of 20 feet, thereby exposing employees to the hazards of fire and explosion.

Type of violation: **Serious**

Fine: ? Violation must be abated by 11/30/96.

29CFR1910.303(g)(2)(i):

Two electrical fuse panel boxes and an electrical outlet box were not guarded, thereby exposing the live conductors. The exposing employees to the hazards associated with live electrical parts.

Type of violation: **Serious**

Fine: \$750.00 Violation must be abated by 12/8/96.

29CFR1910.141(d)(2)(ii):

Lavatories were not provided with hot or cold, or tepid running water, thereby exposing employees to unsanitary conditions.

Type of violation: **other**

Fine: 0 Violation must be abated by 12/22/96.

Total penalties levied against IWI=\$3900.00

September 12, 1997

Mr. Murphy of the Office of the Attorney General sent Mr. Wellman a letter of Technical Compliance. In the People vs. I.W.I, Inc (Case No 97 CH 06138), the state provided guidelines to IWI, in order to come into compliance as ordered by Judge Durkin on September 8, 1997.

May 5, 1999

According to the RCRA Inspection Report submitted by Tina Kovasznay, site conditions reflected earlier remain virtually unchanged or worse. However, some material, which appeared contaminated or unusable during the last inspection, disappeared. No receipts or manifests for disposal of any waste was available. According to Mr. Wellman and Mr. Ehrler, the material was used as a primer on totes. Soil contamination was observed (approximately 5'x 30'), in a ditch west of building "S" with what appears to be oil or grease. IWI continued the practice of storing hazardous waste throughout the facility.

February 9, 1999

A Letter was sent from Mr. Bernard Murphy (AGO), to Mr. James Brusslan Attorney for IWI to clarify previous agreements. In the letter, Mr. Murphy informs Mr. Brusslan that he never agreed to limit the inspections to be done by the Illinois EPA. He added, "that inspections may include current violations that are still pending enforcement action" as previously agreed upon. Mr. Murphy ended his letter by stating since he was called a "liar" by Mr. Brusslan, all future correspondence will be done by letter or in the presence of a court reporter.

March 31, 1999

A letter was sent from Mr. James Brusslan to Mr. Bernard Murphy. The purpose of the letter was to make a counter offer of \$11,500 to the States settlement demand of \$35,000. In this letter Mr. Brusslan states the following reasons why a smaller figure is appropriate. Briefly, Mr. Brusslan states that IWI only took one single reading and the fact that the composition of rinsate constantly changes, the state would have a difficult time establishing that the facility is subject to a wide array of hazardous waste violations. He also added that the action is barred by the doctrines of res judicata and collateral estoppel and therefore cannot be relegated. Even though Judge Durkin denied the motion for summary judgment, they intend to reassert at trial and file an appeal. He also stated that the two counts of dumping and littering would be dismissed at trial because they were the same material covered in the 1985 lawsuit, and that the defendants have a reasonable "Good Faith" defense. In closing, Mr. Brusslan states that he recognizes that this matter has fostered bad blood between not only the litigants, but now the lawyers. The defendants also believe that they are being harassed for a second time after the state unfairly shut IWI down in the 1980's.

August 2, 2000

An observational inspection was done by Tina Kovasznyay to determine if IWI was still operating after Mr. Wellman death in December 1999. According to her report the business was not operating and the facilities entrances were pad locked. There were no visible signs of employees present or furniture in the building.

May 16, 2001

A site visit was conducted at IWI at the request of the Illinois AGO. The purpose of the visit was to meet with IWI's Attorney and point out the areas of concern. The following was observed:

- A black viscous liquid (possibly grease), oozing out of Building "S" on the west side of the property. The ditch previously mentioned was now grossly contaminated.
- All of the drums previously observed on-site have disappeared and no supporting documentation as to their whereabouts. When Mr. Brusslan was asked where the drums were he stated, "**You'll have to ask Mr. Wellman**".
- Access to the site was not restricted.
- Roofs of most buildings have collapsed and very dangerous conditions exist.

December 24, 2001

Consent Order issued by the Cook County Circuit Court Chancery Division. The order specifies that the assets of Mr. Wellman estate (\$83,000), from a Charles Schwab Account be distributed as follows: Mr. Robert B. Borla (Attorney) \$10,000 and Mr. Brusslan \$4,000. The balance was to be placed in the Illinois EPA Hazardous Waste Fund (approximately \$69,000).

Additionally, The Illinois EPA, its employees and representatives shall have the right of entry into and upon the property at all reasonable times for the purpose of carrying out inspections, collecting samples, photographs and information as they deem necessary. Finally, a cease and desist from future violations of the Act and Board Regulations.

- IWI released from Liability due to the impossibility of IWI doing compliance work at the site.
- Plaintiff (Illinois EPA) retains right to redress future violations or obtain penalties.

February 25, 2002 Memorandum from Mr. Peter Orlinisky to File#680-93: #115-94. Closing of Enforcement File against IWI as of February 25, 2002.

January 2003-October 2003

In the time period between January and October 2003, the USEPA conducted a CERCLA Time Removal Action that included sampling, characterization, packaging, and disposal of liquid/solid waste, waste containers and contaminated soils. I contacted Mr. Fred Micke, OSC, Region 5, on August 16, 2004 by phone (312- 886-5123) to obtain copies of all pollution control reports completed over the cleanup period (Jan-Oct 2003). I also extended him an invitation to meet at the IWI site in Summit on August 18, 2004. Unfortunately, Mr. Micke had a prior engagement and was unable to meet at the site. However, Mr. Micke suggested that I contact Mr. Jim Clark (OER-Illinois EPA) for copies of the pollution report, since he regularly updated him on the progress of the IWI site cleanup. Mr. Micke further stated that no more work would be done at this site because the USEPA felt it was sufficiently cleaned up. I called Mr. Clark to inquire about the pollution reports for the IWI site. He informed me that Tina Kovasznay had just emailed him and made the same request. He stated that I should get a copy of the completed pollution reports (five total) from Ms. Kovasznay. Mr. Clark also stated that the five reports covered the period from June 17, 2003 through October 2, 2003 and that he did not have the final report for this project from the USEPA. I contacted Mr. Micke once more and inquired about a final report for the IWI site. Mr. Micke stated that it was not done because of a billing dispute with one of the sites contractors.

Time Line for Response and Disposition of waste

According to the October 2, 2003 pollution report from the USEPA, the Emergency and Rapid Response (ERRS) contractor Earth Tech, demolished all structures and removed the following debris from the subject site as follows:

January 21, 2003- (ERRS) contractor mobilized to the site and began site setup and clearing (Grubbing) operations.

March 10, 2003-USEPA and ERRS re-mobilized to site. Nine work zone air-monitoring stations were setup around the perimeter and downwind from work area. Superfund Technical Assessment and Response Team (START), contractor- Weston, checked air samples twice daily. A MultiRAE 5-gas analyzer (Co, O₂, H₂S, LEL and VOC's) and MiniRam (dust monitor) were used to ensure air quality at the subject site. All MultiRAE readings in breathing zones and monitoring locations were less than action levels.

March 11& 12, 2003- One building was demolished in order to safely stage and sample drums and totes. Asbestos characterization of site initiated and completed.

March 28, 2003- 2000-gallon water truck brought to sight to suppress dust from debris piles and work areas. Used on an "as needed" basis for dust control.

April 9-April 11, 2003- collection of samples from staged totes began and completed. Samples were taken for Lead, Chromium, Solvents and other Petroleum Products (grease/oil).

April 22-June 20, 2003-Hazardous characterization of samples initiated and completed. In total, 815 hazardous characterizations of totes (106) and drums (709) were performed. In addition, 44 composite samples (14 totes and 30 drums), were prepared to characterize waste streams for disposal. Compositing was completed on July 11, 2003. Petroleum sludge, chlorinated petroleum products, grease, paint sludge, organic solvents with possible metals, detergent, oxidizers and water were identified.

April 28-June 11, 2003- Drum sampling began and completed on June 11. Also included were totes pulled from the buildings and collection of samples from the sump pits and rail tank car. In total, 129 totes and 578 drums were sampled.

May 22, 2003 - The last remaining seven totes were removed from the buildings.

June 30, 2003- Portion of the permanent fence was installed. Fence was completely installed after removal activities were completed. Verified by Illinois EPA-inspection August 18, 2004.

July 30- August 16, 2003 - Transport and Disposal (T&D) of sludge from the boiler. In total, 42 roll-off boxes (approximately 840 cubic yards) of sludge were removed from the site and sent to Panafix Landfill in Ohio. According to Mr. Micke (USEPA) via phone conversation on September 14, 2004.

August 12 - September 24, 2003 - T&D of drums and totes. In total, 604 drums and 50 totes were removed from the site.

August 2003- T&D of approximately 55,700 gallons of sump and tote liquids were disposed of.

September 2003- T&D of hazardous soil. Approximately 900 tons of hazardous soil was removed. Soil was removed from the west edge of the site and from adjacent properties to the east and west sides of the Site.

*** These are not the final numbers as more work was done at the site after October 2003. ***

Inspection Results (August 18th, 2004)

On August 18th, 2004, I inspected the IWI site in Summit, IL with Charlene Thigpen, Tina Kovaszny and Jim Haennicke (all Illinois EPA/BOL employees). Upon our arrival we found the front gate to the property was open and a welder working on the site (**Photo 6**). Tina questioned him as to why he was there and he replied, "his boss had bought the property". The worker informed Tina Kovaszny that he worked next door (7742 W. 61 Place), for Boris Nitchoff owner of Maxwell Builders Co. Inc. We agreed to talk later with the owner after our inspection. Currently, the subject property is vacant and clear of all buildings, containerized waste and surface debris. The sumps were filled in with an unknown material. There were however a number of concrete pads where the former buildings were located. The pads covered approximately 80% of the site. The entire surrounding area was fenced in and secure (**Photo 7**). After walking the site, we went next door to speak with Mr. Nitchoff who informed us that he bought the IWI property for back taxes. Mr. Nitchoff stated that he had hired his own contractor, American Environmental Consultants (630- 916-8300), to verify that the property was infact safe. Mr. Mitchoff also stated that Mr. Fred Micke of the USEPA had cleaned up the sight completely.

Current Status

The current status of the site is that it appears to be an empty lot with two partial building substructures (holding stagnant water) and numerous concrete pads. The concrete pads are in very poor condition and in some areas dirt was exposed (**Photo 8**). There were no visible signs of contamination. As previously stated, the new owner is under the impression that USEPA had cleaned up the site completely. However the 10/2/03 USEPA report did not indicate that any groundwater sampling was done.

The potential for soil and groundwater contamination remains a concern for this site. As per my conversations with Mr. Micke (USEPA) on August 16, 2004, contaminated soil remains under the concrete pads on the site. Through an additional conversation I had with Mr. Jeff Duley (Building Inspector, village of Summit) on August 24, 2004, I learned of local residents getting water in their basements. The residents often purged the water back into the street. Mr. Duley stated that when a village crew repaired a local water main the workers reported a noxious odor.

Recommendations

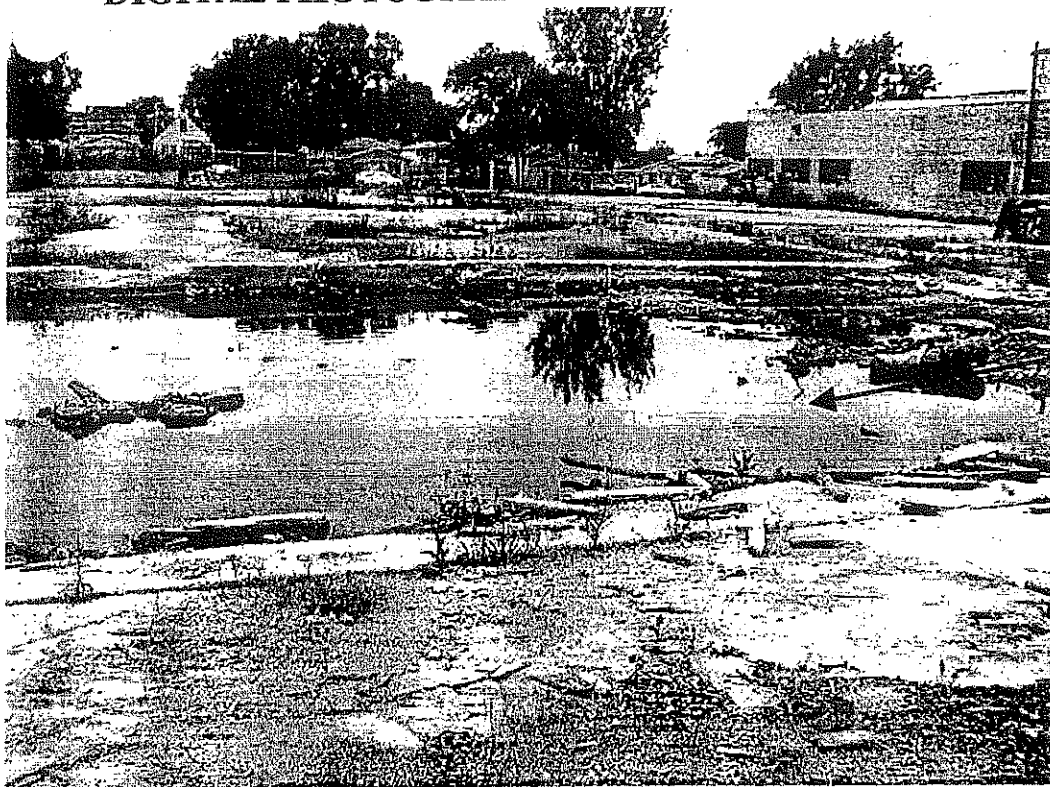
Local residents have been on city sewer and water since the 1940's. Their homes are within 150 yards of the IWI site. Monitoring wells should be installed to characterize the groundwater under the site. Additionally, after the USEPA soil removal (CERCLA Action), no "Clean" verification samples were ever mentioned. Therefore, I recommend the following actions: Notify the owner in writing that on-site soil and water sampling, be conducted since numerous sump pits were found to be hazardous for Trichloroethylene. Drain existing building substructures and fill in with clean soil and/or gravel to prevent mosquito breeding. Encourage the current owner to join the Site Remediation Program due to remaining contamination still present on-site under the concrete pads. Finally, place a deed restriction on the property with institutional controls to inform future owners/occupiers of contamination that remains at the site.

Attachments: Photo Document

CC: Neelu Reddy, RPMS
Regional File



DIGITAL PHOTOGRAPHS



Date: August 18, 2004
Time: 9:28 A.M.
Direction: Southwest
Photo by: C. Holy
Exposure #: 003
Comments:
Southwest view of former building #2. Note- former processing area filled with stagnant standing water.

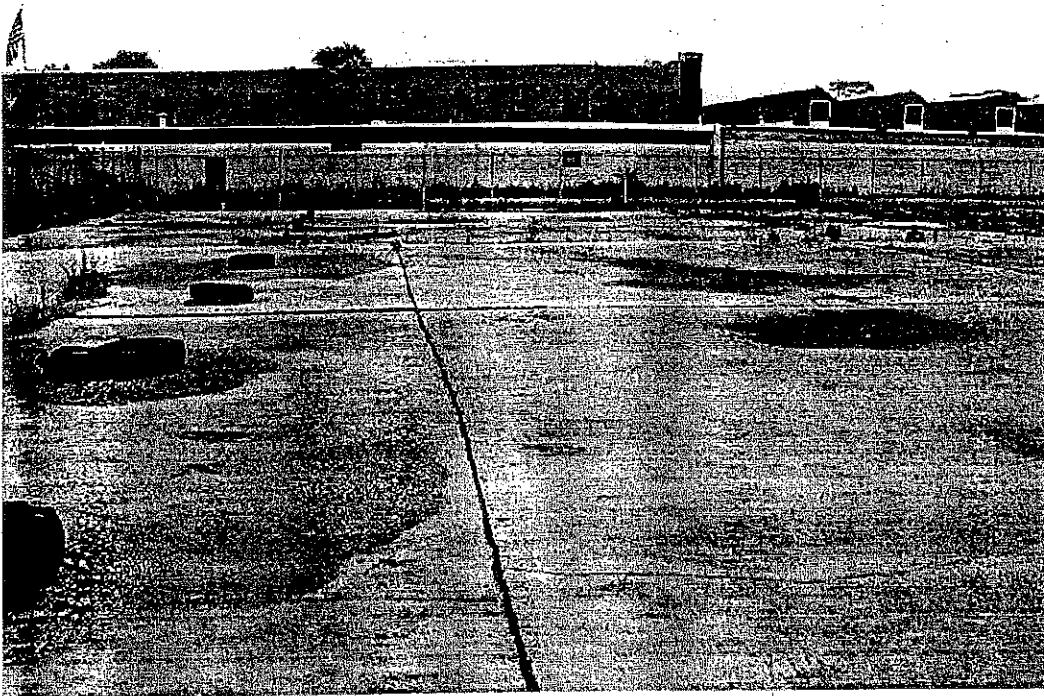


Date: August 18, 2004
Time: 9:30 A.M.
Direction: Southwest
Photo by: C. Holy
Exposure #: 004
Comments:
Southwest view of 8-ft drainage ditch where grease migrated from totes and drums. Site is next to former building #2.

File Names: 0311740003~08182004-003.jpg
0311740003~08182004-004.jpg



DIGITAL PHOTOGRAPHS



Date: August 18, 2004

Time: 9:22 A.M.

Direction: North

Photo by: C. Holy

Exposure #: 007

Comments:

Concrete pads cover approximately 80% of site. New fence erected around site.



Date: August 18, 2004

Time: 9:31 A.M.

Direction: Southeast

Photo by: C. Holy

Exposure #: 008

Comments:

Southeast view of IWI'S concrete pads. Note-vegetation protruding through concrete. Pads are in very poor condition. In most areas dirt is exposed.

File Names: 0311740003~08182004-007.jpg
0311740003~08182004-008.jpg